



## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-832]

#### **Pure Magnesium from the People's Republic of China: Preliminary Results of Antidumping Administrative Review; 2019-20**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) is conducting the administrative review of the antidumping duty (AD) order on pure magnesium from the People's Republic of China (China). The period of review (POR) is May 1, 2019, through April 30, 2020. Commerce preliminarily determines that Tianjin Magnesium International Co., Ltd. and Tianjin Magnesium Metal Co., Ltd. (collectively, TMI/TMM) did not have any shipments during the POR. We invite interested parties to comment on these preliminary results.

**DATES:** Applicable [Insert date of publication in the *Federal Register*].

**FOR FURTHER INFORMATION CONTACT:** Kyle Clahane, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5449.

#### **SUPPLEMENTARY INFORMATION:**

##### Background

On May 1, 2020, Commerce published in the *Federal Register* a notice of opportunity to request an administrative review of the AD order on pure magnesium from China for the POR.<sup>1</sup>

On July 10, 2020, in response to a timely request from the petitioner,<sup>2</sup> and in accordance with

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<sup>1</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 85 FR 25394 (May 1, 2020); see also *Notice of Antidumping Duty Orders: Pure Magnesium from the People's Republic of China, the Russian Federation and Ukraine; Notice of Amended Final Determination of Sales at Less Than Fair Value: Antidumping Duty Investigation of Pure Magnesium from the Russian Federation*, 60 FR 25691 (May 12, 1995) (*Order*).

<sup>2</sup> See US Magnesium LLC's Letter, "Request For Administrative Review," dated May 29, 2020.

section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the *Order* with respect to TMI/TMM.<sup>3</sup> On July 21, 2020, Commerce tolled all deadlines in administrative reviews by 60 days.<sup>4</sup> The deadline for the preliminary results of this review is now April 1, 2021.

### Scope of the *Order*

The product covered by this antidumping duty order is pure magnesium from China, regardless of chemistry, form or size, unless expressly excluded from the scope of the order. Pure magnesium is a metal or alloy containing by weight primarily the element magnesium and produced by decomposing raw materials into magnesium metal. Pure primary magnesium is used primarily as a chemical in the aluminum alloying, desulfurization, and chemical reduction industries. In addition, pure magnesium is used as an input in producing magnesium alloy. Pure magnesium encompasses products (including, but not limited to, butt ends, stubs, crowns and crystals) with the following primary magnesium contents:

(1) Products that contain at least 99.95% primary magnesium, by weight (generally referred to as “ultra pure” magnesium) Magnesium Alloy”<sup>5</sup> and are thus outside the scope of the existing antidumping orders on magnesium from China (generally referred to as “alloy” magnesium).

(2) Products that contain less than 99.95%, but not less than 99.8%, primary magnesium, by weight (generally referred to as “pure” magnesium); and

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<sup>3</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 41540 (July 10, 2020). In the 2011-2012 administrative review of the order, Commerce collapsed TMM and TMI, and treated the companies as a single entity for purposes of the proceeding. Because there were no changes to the facts which supported that decision since that determination was made, we continue to find that these companies are part of a single entity for this administrative review. See *Pure Magnesium from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 94 (January 2, 2014), and accompanying Issues and Decision Memorandum at Comment 5.

<sup>4</sup> See Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews,” dated July 21, 2020.

<sup>5</sup> The meaning of this term is the same as that used by the American Society for Testing and Materials (ASTM) in its Annual Book for ASTM Standards: Volume 01.02 Aluminum and Magnesium Alloys.

(3) Products that contain 50% or greater, but less than 99.8% primary magnesium, by weight, and that do not conform to ASTM specifications for alloy magnesium (generally referred to as “off-specification pure” magnesium).

“Off-specification pure” magnesium is pure primary magnesium containing magnesium scrap, secondary magnesium, oxidized magnesium or impurities (whether or not intentionally added) that cause the primary magnesium content to fall below 99.8% by weight. It generally does not contain, individually or in combination, 1.5% or more, by weight, of the following alloying elements: Aluminum, manganese, zinc, silicon, thorium, zirconium and rare earths.

Excluded from the scope of the order are alloy primary magnesium (that meets specifications for alloy magnesium), primary magnesium anodes, granular primary magnesium (including turnings, chips and powder) having a maximum physical dimension (*i.e.*, length or diameter) of one inch or less, secondary magnesium (which has pure primary magnesium content of less than 50% by weight), and remelted magnesium whose pure primary magnesium content is less than 50% by weight.

Pure magnesium products covered by the order are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 8104.11.00, 8104.19.00, 8104.20.00, 8104.30.00, 8104.90.00, 3824.90.11, 3824.90.19 and 9817.00.90. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive.

#### Preliminary Determination of No Shipments

We received timely submissions from TMI and TMM certifying that they did not have sales, shipments, or exports of subject merchandise to the United States during the POR.<sup>6</sup> On November 2, 2020, we requested the U.S. Customs and Border Protection (CBP) data file of entries of subject merchandise imported into the United States during the POR, and exported by

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<sup>6</sup> See TMI’s Letter, “No Shipment Certification,” dated July 17, 2020; *see also* TMM’s Letter, “No Shipment Certification,” dated July 17, 2020.

TMM/TMI.<sup>7</sup> This query returned no entries during the POR.<sup>8</sup> Additionally, on November 19, 2020, Commerce submitted a no-shipments inquiry to CBP with regard to TMI/TMM,<sup>9</sup> to which CBP responded that it found no shipments of subject merchandise by TMI/TMM during the POR.<sup>10</sup>

Accordingly, and consistent with our practice, we preliminarily determine that TMI/TMM had no shipments during the POR. In addition, we find it is not appropriate to rescind the review with respect to these companies, but rather to complete the review with respect to TMI/TMM and issue appropriate instructions to CBP based on the final results of the review, consistent with our practice in non-market economy (NME) cases.<sup>11</sup>

#### Public Comment

Interested parties are invited to comment on the preliminary results and may submit case briefs, filed electronically via Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), within 30 days after the date of publication of these preliminary results of review.<sup>12</sup> ACCESS is available to registered users at <https://access.trade.gov>. Rebuttal briefs, limited to issues raised in the case briefs, must be filed within seven days after the time limit for filing case briefs.<sup>13</sup> Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument a statement of the issue, a brief summary of the argument, and a table of authorities.<sup>14</sup> Note that Commerce has temporarily modified certain portions of its requirements for serving documents containing business proprietary information, until further notice.<sup>15</sup>

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<sup>7</sup> See Memorandum, "2019-2020 Administrative Review of Pure Magnesium from the People's Republic of China, Release of U.S. Customs and Border Protection Data," dated March 1, 2021 at Attachment 1.

<sup>8</sup> *Id.* at Attachment 2.

<sup>9</sup> *Id.* at Attachment 3.

<sup>10</sup> *Id.* at Attachment 4.

<sup>11</sup> See *Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review 2014-2015*, 81 FR 72567 (October 20, 2016), and the "Assessment Rates" section, below.

<sup>12</sup> See 19 CFR 351.309(c)(1)(ii).

<sup>13</sup> See 19 CFR 351.309(d)(1) and (2); see also *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020) (*Temporary Rule*).

<sup>14</sup> See 19 CFR 351.309(c) and (d); see also 19 CFR 351.303 (for general filing requirements).

<sup>15</sup> See *Temporary Rule*.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to Commerce within 30 days of the date of publication of this notice.<sup>16</sup> Requests should contain: (1) the party's name, address, the telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held.<sup>17</sup> Commerce intends to issue the final results of this administrative review, which will include the results of our analysis of all issues raised in the case briefs, within 120 days of publication of these preliminary results in the *Federal Register*, unless extended, pursuant to section 751(a)(3)(A) of the Act.

#### Assessment Rates

Upon issuance of the final results of this review, Commerce will determine, and CBP will assess, antidumping duties on all appropriate entries covered by this review.<sup>18</sup> Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the *Federal Register*. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication). Pursuant to Commerce's practice in NME cases, if we continue to determine in the final results that TMI/TMM had no shipments of subject merchandise, any suspended entries of subject merchandise during the POR from these companies will be liquidated at the China-wide rate.<sup>19</sup>

#### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or

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<sup>16</sup> See 19 CFR 351.310(c).

<sup>17</sup> See 19 CFR 310(d).

<sup>18</sup> See 19 CFR 351.212(b)(1).

<sup>19</sup> For a full discussion of this practice, see *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

withdrawn from warehouse, for consumption on or after the publication date of the final results of review, as provided for by section 751(a)(2)(C) of the Act: (1) For TMI and TMM, which claimed no shipments, the cash deposit rate will remain unchanged from the rate assigned to TMI/TMM in the most recently completed review of the companies; (2) for previously investigated or reviewed Chinese and non-Chinese exporters who are not under review in this segment of the proceeding but who have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the China-wide rate of 111.73 percent;<sup>20</sup> and (4) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to Chinese exporter(s) that supplied that non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

#### Notification to Interested Parties

These preliminary results of review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: March 25, 2021.

Christian Marsh,  
Acting Assistant Secretary for Enforcement and Compliance.  
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<sup>20</sup> See *Pure Magnesium from the People's Republic of China: Final Results of the 2008-2009 Antidumping Duty Administrative Review of the Antidumping Duty Order*, 75 FR 80791 (December 23, 2010).